

APR 11 2001
Summons issued

FILED

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CLEVELAND, OHIO, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

EVEREADY BATTERY COMPANY, INC.
25225 Detroit Road
Westlake, OH 44145,

) CASE NO.:

101CV 877

Plaintiff,

) JUDGE

JUDGE OLIVER

v.

MATSUSHITA ELECTRIC CORPORATION
OF AMERICA
One Panasonic Way
Secaucus, NJ 07094-2917,

MAG. JUDGE STREEPY

and

PANASONIC INDUSTRIAL COMPANY
Two Panasonic Way
Secaucus, NJ 097094-2917,

Defendants.

COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff Eveready Battery Company, Inc., brings this action for patent infringement against Defendant Matsushita Electric Corporation of America and Panasonic Industrial Company, and alleges as follows:

1. This is an Action for patent infringement. This action arises under the patent laws of the United States, Title 35, United States Code.

2. This Court has jurisdiction over this cause of action under 28 U.S.C. § 1338(a).

3. Venue before this Court is proper under 28 U.S.C. §§ 1391(b) and (c) and § 1400(b).

4. Plaintiff Eveready Battery Company, Inc. (hereinafter "Eveready"), is a corporation organized and existing under the laws of the state of Delaware, having a place of business at 25225 Detroit Road, Westlake, Ohio 44145.

5. Defendant Matsushita Electric Corporation of America. (hereinafter "Matsushita"), on information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, having its principal place of business at One Panasonic Way, Secaucus, New Jersey, 07094-2917.

6. Defendant Panasonic Industrial Company. (hereinafter "Panasonic"), on information and belief, is a wholly-owned subsidiary and/or division of Defendant Matsushita, having its principal place of business at Two Panasonic Way, Secaucus, New Jersey, 07094-2917.

7. This Court has personal jurisdiction over Defendants Matsushita and Panasonic pursuant to the provisions of the Ohio Long Arm Statute, O.R.C. § 2307.382, and the laws of the United States.

8. United States Letters Patent 5,464,709 ("the Patent") was duly and legally issued November 7, 1995, for an invention entitled ALKALINE CELLS THAT ARE SUBSTANTIALLY FREE OF MERCURY. Plaintiff Eveready has been the owner of the Patent since its issuance.

9. Defendants Matsushita and Panasonic have been infringing and continue to infringe the Patent by making, using, selling, and/or offering for sale the invention claimed in the Patent in the United States including in this judicial district, and have contributed and continue to contribute to the infringement of the Patent, and/or have induced and continue to induce others to infringe the Patent, in violation of the United States patent laws. Such infringement has been willful and deliberate. It has persisted despite requests from Plaintiff Eveready that it be stopped.

10. Infringement of the Patent by Defendants Matsushita and Panasonic will continue unless and until enjoined by this Court.

11. Plaintiff Eveready has in the past and continues to suffer damages and irreparable injury as a result of Defendants' actions.

12. Plaintiff has marked its products with the requisite statutory notice pursuant to 35 U.S.C. § 287 and Defendants Matsushita and Panasonic has had actual notice of its infringement of the Patent.

WHEREFORE, Plaintiff prays:

A. That an injunction be issued enjoining further infringement of the Patent by Defendants Matsushita and Panasonic;

B. That Plaintiff Eveready be awarded damages for the infringement of the Patent by Defendants Matsushita and Panasonic, and that such damages be trebled in accordance with the statute because such infringement has been willful and deliberate;

C. That an assessment and allowance of costs, interest and reasonable attorney's fees be made against Defendants Matsushita and Panasonic, and that the resultant sum be awarded to Plaintiff Eveready; and

D. That Plaintiff Eveready have such other and further relief as this Court may deem just.

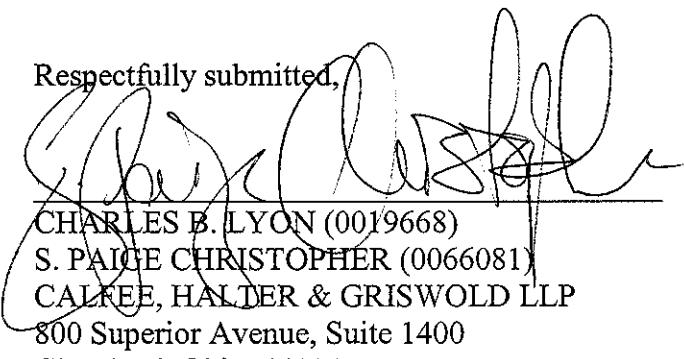
DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury as to all issues so triable.

Dated: April 11, 2001

By:

Respectfully submitted,


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